



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/506, 084 02/17/00 OHSHIMA

T 2355.11106

005514 QM12/0706  
FITZPATRICK CELLA HARPER & SCINTO  
30 ROCKEFELLER PLAZA  
NEW YORK NY 10112

EXAMINER

HARRISON, T

ART UNIT

PAPER NUMBER

3713

**DATE MAILED:**

07/06/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No. <b>09/506,084</b>	Applicant(s) <b>Ohshima et al.</b>
	Examiner <b>J. Harrison</b>	Art Unit <b>3713</b>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1)  Responsive to communication(s) filed on Apr 5, 2000.

2a)  This action is FINAL.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

#### Disposition of Claims

4)  Claim(s) 1-39 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-39 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved.

12)  The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

15)  Notice of References Cited (PTO-892)      18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16)  Notice of Draftsperson's Patent Drawing Review (PTO-948)      19)  Notice of Informal Patent Application (PTO-152)

17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). 3      20)  Other: \_\_\_\_\_

Art Unit: 3713

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

Claims 2, 3, 5-7, 14, 15, and 20-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- ✓ In claims 2, 3, 21 and 22, “wares” is confusing and inapt: perhaps “wears” is intended.
- ✓ In claims 5, 6, 24, and 25, use of “that” time is indefinite, as no time has been established. Use of “a current time” or “a real time” would be more precise.
- ✓ Claims 14, 15, 33 and 34 are confusing in that they refer to a “rule”(singular), while antecedent has been defined for “rules”(plural). “One of said rules” is more exact.
- ✓ Claim 20 includes the structure “rule memory” which is not referred to in a step and as structure, it is unclear if/how it is meant to be limiting to a method claim. Perhaps the step of storing was intended. Further, each of claims 24 - 2<sup>7</sup>, 31, 32, 35 and 36 appear to recite only structural limitations rather than further defining or presenting new method steps. Rephrasing into proper method steps is suggested.

Art Unit: 3713

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-11, 14, 15, 17-19, 20-30, 33, 34, and 36 - 39 are rejected under 35

U.S.C. 102(b) as being clearly anticipated by Jarvik.

The Jarvik system integrates virtual reality with real-time sensed physical reality to provide a unique hybrid environment, as claimed in the instant claims.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12, 13, 16, 31, 32, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jarvik.

Jarvik gives exercising examples, but suggests his systems use in a game environment. He does not explicitly state different types of games, such as recited in these claims. However, enemy

Art Unit: 3713

games, fighting games, cooperative games, danger games, and the like are all well known genres of games, each having their own scoring schemes determined by game designers. It would have been obvious to one of ordinary skill in the art at the time of the invention to adapt well known game genera and scoring schemes to the Jarvik system, in order to provide a variety of virtual experiences to the Jarvik system. Specific recitation of a type of score or game, when such are well known in the game art, would not serve to define patentability given the analogous technology and suggestions of game embodiments in Jarvik.

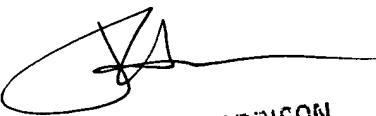
*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The additional art relates to similar VR game systems.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Harrison whose telephone number is (703) 308-2217.

jjh

June 29, 2001



JESSICA J. HARRISON  
PRIMARY EXAMINER